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HUMAN RIGHTS QUESTIONS

Suppression of the traffic in persons and of the exploitation of the prostitution of others

Report of the Secretary-General

SUMMARY

The Economic and Social Council, in resolution 1983/30 on the suppression of the traffic in persons and of the exploitation of the prostitution of others, made a number of recommendations to Member States on that subject. Among the recommendations were the ratification of international instruments and the adoption of measures aimed at preventing prostitution, increasing the number of women in the State's personnel having direct contact with the populations concerned, eliminating discrimination against prostitutes and facilitating their reabsorption into society, curbing the pornography industry and punishing all forms of procuring. Requests regarding these issues were also made to organs and organizations of the United Nations system. At the Council's request, the Secretary-General reported on the implementation of resolution 1983/30 to the Council at its first regular session of 1985 (E/1985/46), first regular session of 1990 (E/1990/33) and first regular session of 1991 (E/1991/18).

The Council in resolution 1991/35 requested the Secretary-General to submit a further report to it in 1992, on the steps taken to implement the recommendations contained in Council resolution 1983/30 by those Member States, United Nations organizations and other intergovernmental organizations that had not yet submitted such information. The present document contains information submitted pursuant to that request.

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INTRODUCTION

1. In its resolution 1991/35 on the suppression of the traffic in persons, the Economic and Social Council requested the Secretary-General to submit a further report to the Council in 1992, on the steps taken to implement the recommendations contained in Council resolution 1983/30 by those Member States, United Nations organizations and other intergovernmental organizations that had not yet submitted such information. (The text of Economic and Social Council resolution 1983/30 is contained in the annex to the present report.)

2. Pursuant to that resolution, the Secretary-General, on 14 October 1991, addressed requests to Governments, United Nations organs, specialized agencies and intergovernmental organizations concerned for information on the steps taken to implement the recommendations in Council resolution 1983/30.

3. By 21 April 1992, replies had been received from the following States: Argentina, Burkina Faso, Cuba, Guinea and Tunisia.

4. Replies were also received from the Economic Commission for Latin America and the Caribbean, the Council of Europe, the European Parliament and the International Criminal Police Organization (Interpol). The Department for Special Political Questions, Regional Cooperation, Decolonization and Trusteeship, the United Nations Development Programme, the United Nations University, the World Bank, the World Intellectual Property Organization and the Organisation for Economic Cooperation and Development have indicated that they had no information to submit on this subject.

5. The present report is prepared pursuant to paragraph 3 of Council resolution 1991/35 and contains the substantive replies received.

6. The Secretary-General deems it appropriate to refer also to his previous reports on the implementation of Economic and Social Council resolution 1983/30 (documents E/1985/46, E/1990/33 and E/1991/18), which were submitted to the Council at its first regular sessions of 1985, 1990 and 1991. As indicated in those reports, a number of countries (Barbados, Belgium, Brunei Darussalam, Chad, Chile, Colombia, Czechoslovakia, El Salvador, the Federal Republic of Germany, Finland, Gabon, Iraq, Madagascar, Mexico, Netherlands, Norway, Pakistan, Portugal, Qatar, Rwanda, South Africa and Tunisia) had submitted information in connection with Council resolution 1983/30. Substantive replies on this subject had also been received from the Department of Public Information, the Division for the Advancement of Women, the Economic Commission for Africa, the Economic Commission for Latin America and the Caribbean, the United Nations Children's Fund, the United Nations High Commissioner for Refugees, the United Nations Educational, Scientific and Cultural Organization, the International Labour Organisation, the Commission of the European Communities, the Organization of American States, the World Tourism Organization and Interpol. The information contained in those replies was transmitted to the Working Group on Contemporary Forms of Slavery of the

Subcommission on Prevention of Discrimination and Protection of Minorities for consideration at its tenth, eleventh, fifteenth and sixteenth sessions.

7. Any additional replies will be issued as addenda to the present report.

I. INFORMATION RECEIVED FROM STATES

A. Argentina

[Original: Spanish]

[11 March 1992]

Norms of domestic law

1. National Constitution. Article 15: "In the Argentine Nation there are no slaves ... Any contract for the purchase or sale of persons is a crime for which those committing it, and the notary or official authorizing it, shall be responsible." Article 17: "No personal service can be required except by virtue of a law or a sentence based on law."

2. Penal Code. Forced labour is not included among the penalties established by the Penal Code (rigorous imprisonment, ordinary imprisonment, fines and disqualification). Article 140: "Anyone who reduces another person to servitude or to any similar condition, and anyone who receives such a person in that condition for the purpose of maintaining him or her therein, shall be sentenced to 3 to 15 years' rigorous or ordinary imprisonment." Article 6: "A sentence of rigorous imprisonment for life or for a lesser period shall be served by means of compulsory labour in penal institutions intended for that purpose. Prisoners may be employed in public works of any kind, so long as they are not employed by individuals." Article 9: "A sentence of ordinary imprisonment for life or for a lesser period shall be served by means of compulsory labour in institutions other than those intended for prisoners serving sentences of rigorous imprisonment."

Parliamentary bills

3. Prostitution

(1) Replacement of article 17 of Act No. 12,331 (Prevention of Prostitution Act).

House of Deputies - Bill: Cortese, L., 27 June 1985, p. 1612: "Anyone who, overtly or covertly, supports, administers or oversees, a house of prostitution shall be fined. In case of recidivism, the offender shall be sentenced to one to three years' ordinary imprisonment."

(2) Replacement of article 17 of Act No. 12,331.

House of Deputies - Bill: Fino, Torcuato E., 17 April 1986, p. 8445. The fine imposed for the offence of procuring is being updated.

(3) Amendments to article 17 of Act No. 12,331.

House of Deputies - Bill: Horta, J. L., 17 December 1986, p. 7648. If the person convicted of the offence of procuring is a naturalized citizen, the consequence of imprisonment shall be loss of citizenship and expulsion from the country, once sentence has been served; likewise expulsion shall be the penalty if the offender is an alien.

(4) Inclusion of the offence of pimping. Replacement of articles 125 and 126 of the Penal Code. Inclusion of articles 125 bis, 126 bis and 127 ter. Abrogation of article 17 of Act No. 12,331.

House of Deputies - Bill: Contreras Gómez, C., 31 August 1988, p. 685. Anyone who derives even partial support from the earnings of a person of either sex who engages in prostituion shall be sentenced to rigorous or ordinary imprisonment for two to six years and fined.

(5) Amendments to articles 125 and 127 of the Penal Code; inclusion of articles 127 bis and ter (Corruption and indecent assault of minors).

House of Deputies - Bill: Díaz de Aguero, F., 23 October 1987, p. 1546. This bill endeavours to respond to the need for effective suppression and punishment of offences involving the corruption and indecent assault of minors and characterizes the conduct of White slave traffickers, procurers and pimps as unlawful. Penalties have been increased; the bill envisages the situation of a victim who is incompetent and who, because of her disability and vulnerability, is unable to resist the deceitful conduct of the sex merchants. The bill further envisages such consequences as fines and general disqualification.

(6) Rules for updating the fines under Act No. 12,331.

House of Deputies - Bill: Cortese, L., et al., 27 September 1990, p. 462. The amounts of the fines shall be updated every six months by the Executive in accordance with changes in the general wholesale price index published by the National Institute for Statistics and Censuses.

4. Sale of babies and other persons:

(a) Offences against civil status:

(i) Inclusion of article 139 bis in the Penal Code.

House of Deputies - Bill: Briz de Sánchez, Onofre, et al., 30 October 1986, p. 2798. This bill sets forth a penalty for anyone who promotes or facilitates the handing over to third parties of a minor under 10 years of age by his parents or guardians for the purpose of changing his civil status;

(ii) Amendment to articles 138 (Change of identity) and 146 of the Penal Code. Inclusion in the Penal Code of articles 145 bis and 146 bis.

House of Deputies - Bill: Alberti, Lucía, 16 August 1988, p. 1946. This bill replaces article 138 of the Penal Code by another article which proposes to delete intention to cause harm as a necessary component of wrongful act. The bill proposes to include article 145 bis, which refers to aggravating factors, such as profit and organization with a view to committing the act. Article 146 covers the offence of handing over to third parties and extends it to include anyone who collaborates in the commission of the act. Article 146 bis deals with the offence of incitement to deliver a minor to third parties without the intervention of the competent authorities;

(iii) Changing the caption "Offences against civil status" (Book II, Title IV of the Penal Code) to "Offences against the family".

House of Deputies - Bill: Contreras Gómez, Carlos, 19 August 1988, p. 1999. This bill sets forth a penalty for unlawful marriages, assaults on the integrity of the family, non-fulfilment of family-support obligations, etc. Draft article 139 of the Penal Code provides that anyone who, in any way, contributes to a false entry in the civil registry shall be sentenced to from two to six years' ordinary imprisonment. Article 139 bis sets forth the same prison sentence for any physician or midwife who abuses his or her professional capacity by being an accessory to such an offence, plus a disqualification of from two to eight years.

(b) Offences against liberty:

(i) Replacement of article 140 of the Penal Code.

House of Deputies - Bill: Allegrone de Fonte, Norma, 10 October 1986, p. 2465. Anyone who reduces another person to servitude or to any similar condition, maintains such a person in that condition or concludes a contract for the sale of persons shall be sentenced to from three to 15 years' rigorous imprisonment. If the offence involves the exploitation of a minor under 16 years of age, the penalty shall be from 5 to 20 years' rigorous imprisonment;

(ii) Inclusion in the Penal Code of article 145 bis.

House of Deputies - Bill: Briz de Sánchez, Onofre, 30 October 1986, p. 2798. This article sets forth the penalty for anyone who promotes or facilitates the transport of a minor under 10 years of age across the borders of the Republic for the purpose of changing his civil status;

(iii) Inclusion in the Penal Code of articles 140 bis, ter, quater and quint (Sale of persons).

House of Deputies - Bill: Contreras Gómez, C., 2 May 1988, p. 23. By including the offence of sale of persons in the Penal Code, this bill defines a basic offence, in accordance with article 15 of the Constitution. It provides for two types of mitigating circumstances, namely, where the mother is not married and is prompted by desperate economic straights, and where the others involved are motivated by the wish to adopt the victim as their own child. It also provides for two types of aggravating circumstances, namely, where one of the parents is a party to the sale of a baby, and where the transaction involves an organization which makes a practice of engaging in such transactions. Specific mention is made of doctors, midwives, nurses and public officials who, in addition to receiving a custodial penalty, are disqualified for a period twice the length of their sentence;

(iv) Inclusion in the Penal Code of articles 140 bis and ter.

House of Deputies - Bill: Salduna, Bernardo, 16 June 1988, p. 1086. This bill sets forth the penalty for anyone who, motivated by the desire for profit, promotes, facilitates or is involved in the adoption or fraudulent registering of minors; where the operation involves an organization which makes a practice of committing such wrongful acts, the penalty is increased;

(v) Inclusion in the Penal Code of articles 140 bis and ter (Sale of babies).

House of Deputies - Bill: Freytes, Carlos, 15 February 1988, p. 2418. This bill sets forth a penalty of from three to six years' ordinary imprisonment for anyone who, motivated by the desire for profit, promotes and/or facilitates the adoption of babies, or their fraudulent registration by the adoptive parents. The sentence shall be increased by one third if the traffic is initiated by someone involved in a professional capacity or by a relative, or if situations of extreme poverty are exploited;

(vi) Inclusion in the Penal Code of articles 140 bis, ter and quater.

House of Deputies - Bill: Cortese, Lorenzo, 5 September 1990, p. 3356. This bill provides that anyone who, in any way, carries out a transaction the purpose of which is to dispose of and purchase persons shall receive a sentence similar to that imposed for reducing a person to servitude;

(vii) Inclusion in the Penal Code of articles 140 bis and ter (Abduction of minors).

House of Deputies - Bill: Avila, Mario E., 19 September 1990, p. 3839. Anyone who abducts a minor from the care of his parents, tutors, guardians or persons entrusted with his care for the purpose of selling him or handing him over to third parties within the country or abroad, shall be sentenced to from three to 10 years' ordinary imprisonment. Anyone who, with full knowledge of the facts, receives or hands over the abducted minor to third parties shall incur the same penalty.

B. Burkina Faso

[Original: French]

[6 March 1992]

Conventions signed and ratified

1. Burkina Faso has neither signed nor ratified the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others nor the International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications.

2. However, it has signed and ratified the following conventions:

(a) Convention on the Elimination of All Forms of Discrimination against Women. Ratification of this Convention was authorized and effected by two texts:

(i) Order No. 84/77/CNR/PRES of 28 November 1984 authorizing the ratification of the Convention on the Elimination of All Forms of Discrimination against Women;

(ii) Decree No. 84-468/CNR/PRES/REC of 28 November 1984 ratifying the Convention on the Elimination of All Forms of Discrimination against Women;

(b) Convention on the Rights of the Child: Burkina Faso signed this Convention on 26 January 1990. The Council of Ministers adopted two texts on 4 July 1990:

(i) Zatu No. AN VII-0045/FP/PRES of 23 July 1990 authorizing the ratification of the Convention on the Rights of the Child;

(ii) Kiti No. AN VII-03832/FP/PRES of 23 July 1990 ratifying the Convention on the Rights of the Child.

The instrument of ratification was deposited on 31 August 1990.

3. These two Conventions contain specific provisions for protection against exploitation. For example, the Convention on the Elimination of All Forms of Discrimination against Women stipulates that the States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women. The Convention on the Rights of the Child provides for protection of children from any unlawful sexual activity and from exploitative use in prostitution or other unlawful sexual practices in pornographic performances and materials.

4. A number of measures have been or are being taken in implementation of these two conventions.

Political measures

5. In 1990, strategies were adopted to combat solicitation for prostitution and to restrict access of minors to places of entertainment. A national commission, comprising representatives from all the ministries concerned as well as from community groups, was set up to coordinate and monitor operations; the latter are based on two strategies:

(a) Provision of information and enhancing public awareness, particularly among young people. The information relates primarily to relevant national legislation.

(b) Implementation of existing laws.

6. A three-year programme, covering 1991 to 1993, has been adopted, but financial difficulties are preventing activities from proceeding as planned.

7. Plans have been drawn up for the rehabilitation of prostitutes wishing to return to society, but to date the necessary financing has not been forthcoming. A planned survey of young women at risk is currently under negotiation with UNICEF. Many of the social workers employed by the Central and Provincial Technical Services responsible for rehabilitation are women and they deal directly with the prostitutes, enhancing their awareness and educating them in matters of health and how to protect themselves from sexually transmitted diseases and AIDS.

National legislation

8. The Act of 1946 which contains the text of the Penal Code prohibits procuring and soliciting for purposes of prostitution. It sets forth penalties for soliciting, whether passively or actively, and penalties to deter people from engaging in procuring.

9. However, it is proving difficult to enforce this law, in the light of certain realities. Often procuring is indirect rather than open. The police sometimes round up the prostitutes in order to keep soliciting under control, notably in city centres.

10. A revision of the Penal Code is under way. The draft new code contains specific provisions covering indecent assault, rape, debauchery, prostitution and procuring. The penalties are more severe if the victim is a minor.

C. Cuba

[Original: Spanish]

[10 January 1992]

1. Economic and Social Council resolution 1991/35 on suppression of the traffic in persons addresses a problem of great topical concern to society in many countries of the world, but one that is absent from the development continuum of Cuban society. None the less, various legal bodies in our country are considering how to prevent or suppress any attempt to traffic in persons, for the whole effort of the Cuban State tends towards the goal that every man or woman who is able to work shall have the opportunity to have a job with which to contribute to the good of society and to the satisfaction of individual needs; that no child shall be left without schooling, food and clothing; that no young person shall be left without the opportunity to study; and that no one shall be left without access to studies, culture and sports (article 8 (b) of the Constitution of the Republic of Cuba).

2. Specifically, the Cuban State has placed great emphasis on integrating women into social endeavours, which undoubtedly helps them to achieve full equality. Similarly, such matters as maternity, adoption, the right to family planning, labour questions and child care issues have been studied and have given rise to new laws suited to Cuban reality which, by creating various institutions, facilitate greater participation of women in building a better society.

3. Article 43 of the Constitution provides, inter alia, that women have the same rights as men in the economic, political and social fields as well as in the family.

4. Considering all of the Cuban State's efforts to facilitate the integration of all citizens into the life of society, any criminal or antisocial behaviour is particularly reprehensible. Article 73.1 (c) of the Cuban Penal Code defines danger to society in terms of antisocial behaviour. Thus anyone who habitually breaks the rules of social coexistence, lives as a social parasite, practises or profits from socially reprehensible vices may be subjected to security measures that include therapeutic measures, rehabilitation or surveillance by law enforcement officials (article 78).

5. Title XI of the Penal Code, which deals with crimes against the normal development of sexual relations and against the family, children and youth, protects the family and provides, in its article 308, that the abduction or substitution of a child shall be punishable by imprisonment for from six months to two years. If the act was committed for profit, imprisonment may be

for two to five years. At the same time, the law provides for imprisonment of two to five years for corruption of minors.

6. There are other laws that protect minors, such as the Family Code of 14 February 1975 and the Code on Children and Young People of June 1978. The latter establishes institutions that provide complete child-care facilities and that seek to develop all children's capacities and provide them with a happy childhood in harmony with their environment and family and society in general.

7. In addition, article 29 of this Code refers to special State care, provided through specialized schools, for minors with physical or mental handicaps or behavioural problems.

8. The Cuban State has made important progress in this area by promulgating Decree-Laws Nos. 95, 64 and 76, on prevention and social care commissions, a system for the care of minors with behavioural disorders, and adoption, children's homes and foster families, respectively.

9. The main thrust of the prevention and social care commissions is to prevent and modify antisocial behaviour among dissident minors, youth and family members and to prevent such behaviour among dissident adults and family members and to rehabilitate them. These commissions also seek to encourage people to become involved in prevention and social care endeavours and to promote public awareness of their objectives; to promote the policy of care and to get children and young people who have dropped out of school and the workforce back in, and to encourage the relevant bodies, agencies and organizations to take steps to help citizens, particularly children, adolescents and young people, to use their free time constructively.

10. Again, with a view to enforcing Decree-Law No. 64 of 1982, systematic checks are run on the organization and functioning of schools for minors with behavioural disorders and reform schools.

11. To that end, numerous investigations are carried out so as to gauge the seriousness of the family difficulties, if any, and to determine whether there have been any gaps or deficiencies in their education and whether the youngsters have received sufficient attention.

12. Provision has been made for the creation of social assistance centres to house and care for minors in exceptional circumstances, those who have been abandoned by their family or have no relatives at all; they are provided with home-like living conditions. There are also foster families that help these centres house and care for orphaned and abandoned children on weekends, during vacations and at other times.

13. Cuban law also punishes the crime of apartheid, as recommended by resolution 1991/35. Article 120 of the existing penal code establishes the penalties to be imposed on anyone who, with a view to instituting and maintaining the domination of one racial group over another, seeks to deprive

the latter of the right to life and liberty; to prevent it from participating in political, social, economic and cultural life; to divide the population along racial lines or to exploit the work of the members of the group, particularly by subjecting them to forced labour.

14. All of these mechanisms created by the revolutionary Government help us to keep our society free of such disgraces, which are also condemned by the international community.

D. Guinea

[Original: French]

[7 January 1992]

1. With respect to the measures taken to give effect to the recommendations in paragraphs 1, 2, 3 and 4 of Council resolution 1983/30, it should be noted, as regards paragraph 1 of the resolution, that the Republic of Guinea has been a party to the relevant Convention since 26 April 1962.

2. In implementation of the Convention, the Guinean Penal Code of 1975 provides, in articles 285 to 287, penalties for any sexual act obtained from a female person by the use of violence towards her and without her consent.

3. The Penal Code also contains a series of articles (288 to 290) relating to incitement to immoral behaviour.

4. In article 289, the Code provides that

(a) whoever in any way shares the proceeds of another's prostitution or receives monies from a person habitually engaged in prostitution, or

(b) serves as an intermediary in any capacity between persons engaged in prostitution or debauchery and persons who exploit or reward another's prostitution or debauchery,

shall be considered a procurer and shall be liable to a term of imprisonment of six months to two years and to a fine of 40,000 to 400,000 Guinean francs, severer penalties being always possible where warranted.

5. A sentence of two to five years' imprisonment and a fine of 100,000 to 1 million Guinean francs shall be imposed in cases where:

(a) the offence involves a minor;

(b) the offence involves duress, abuse of authority or deceit.

6. With regard to paragraph 2 of resolution 1983/30, as the Republic of Guinea is not a party to the International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications, concluded at Geneva on

12 September 1923, as amended by the Protocol signed at Lake Success, New York on 12 November 1947, it is considering the possibility of acceding to it. The Under-Secretary-General for human rights will be notified as soon as possible.

7. With regard to paragraph 3, the recommendations in that paragraph will be taken into account when the Republic of Guinea is admitted as a State party to the Convention.

8. However, a number of these recommendations are already reflected in national legislation as well as in administrative practice. A case in point is the programme Santé pour tous (health for all) broadcast during civics courses in schools. Similarly, a national directorate comprising the vice and narcotics squads has been created at the level of the Ministry of National Defence and Security. Education and awareness programmes in the national languages are being put together for radio and television to help fight the pornography industry and trade.

9. With respect to paragraph 4, the Republic of Guinea is working together with the International Criminal Police Organization (Interpol) and is very encouraged by the results of that collaboration.

E. Tunisia

[Original: French]

[23 March 1992]

1. With regard to the issue of slavery, it should be pointed out that slavery was abolished in Tunisia as early as the nineteenth century. A decree dated 23 January 1846 provided for criminal sanctions for anyone convicted of involvement in the slave trade.

2. Having obtained its independence and proclaimed its attachment to human dignity, justice and liberty (preamble to the Constitution) and guaranteed the inviolability of the human person, Tunisia acceded, in 1966, to the Slavery Convention (of 25 September 1926), as amended by the Protocol of 7 December 1953, and to the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (of 7 September 1956).

3. By acceding to these Conventions Tunisia was merely confirming that slavery no longer existed.

4. With respect to the issue of the suppression of the traffic in persons, it should be pointed out that, anxious to protect the individual from all forms of violence, including, from any improper conduct by those holding public office, Tunisian positive law establishes severe penalties for anyone who engages in such practices. The Penal Code envisages a variety of cases:

(a) Article 101 provides for a penalty of five years' imprisonment plus a fine for any public official or similar person who, in the exercise of his functions and without legitimate motive uses violence or causes violence to be used against an individual;

(b) The same penalty applies to a public official who unlawfully violates the personal liberty of others or who engages, or causes others to engage, in violence against or ill-treatment of the accused in order to obtain a confession or statement (article 103);

(c) Threats of violence or of ill-treatment by an official carry a penalty of six months' imprisonment (article 103).

5. Furthermore, officials who are found guilty of violence towards individuals or of torture, may be stripped of certain rights, such as the right to hold public office, the right to vote, to bear arms or any official honorific insignia (article 115).

6. The fact that a person is an official therefore affects the determination of the penalty if violence is used, that position being, in a way, an aggravating circumstance from which the legislator draws the conclusions. These penalties therefore apply in cases of violence, torture, cruel treatment during the course of an investigation or examination, and in general when people are deprived of their liberty.

7. In 1987, desiring to provide still further protection against any attack, the Tunisian legislator amended certain articles of the Code on Penal Procedure with a view to limiting the time spent in police custody strictly to the time necessary for the investigation (Act No. 87-70 of 26 November 1987). This limitation is, in itself, a guarantee.

8. The above-mentioned Act gives individuals who are in the custody of members of the Criminal Investigation Department the right to ask to be given a medical examination while in custody or upon their release. It requires the above-mentioned officials to mention such requests in the record of the statement.

9. The purpose of this provision is to enable anyone who is held in custody to have any violence to which he may have been subjected while in custody placed on record and in that case to have the sanctions provided for in the Penal Code - and which have been described above - applied. There is no doubt that this provision has a deterrent effect.

10. Furthermore, with a view to the consolidation and effective implementation of the principle of the dignity and inviolability of the human person, several legal reforms have been adopted.

11. The Court of State Security which did not offer defendants all the guarantees to which they were, in theory, entitled, has been abolished (Act No. 87-72 of 26 November 1987), as has the post of Attorney General of the Republic (Procureur général de la République) who was the instrument for

interference in the affairs of justice and who thereby jeopardized its independence and fairness (Act No. 87-80 of 29 December 1987).

12. The penalty of forced labour has been abrogated, because of its degrading nature (Act No. 89-23 of 27 February 1989).

13. Tunisia acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment without expressing the slightest reservation regarding its provisions, thereby unequivocally agreeing to submit to such measures of investigation as the United Nations Committee against Torture might take (Act No. 88-79 of 11 July 1988).

14. It should be pointed out that, on 25 April 1990, in Geneva, after hearing the report of Tunisia, the United Nations committee which is responsible for monitoring the implementation of the said Convention by the signatory countries expressed its satisfaction with the steps being taken to consolidate human rights in Tunisia. It also solemnly congratulated the Government and people of Tunisia for what had already been done and thanked President Zine El Abidine Ben Ali for his determination to work towards complete respect for human rights.

15. Tunisia also submitted its report to the African Commission on Human and People's Rights, knowing that only 4 of the 42 countries which have ratified the African Charter have honoured their commitments and submitted a report at the proper time.

16. It should also be pointed out that respect for human rights is now an integral part of training programmes for law enforcement officials.

17. In addition, a special bureau has been opened in the Ministry of the Interior for citizens wishing to file complaints regarding possible violations of their rights.

18. The Government's concern to ensure that the law is enforced is also reflected in the sentences imposed on certain agents of the Criminal Investigation Department found guilty of abuse of power.

19. It should also be pointed out that Tunisian legislation provides for more than one remedy to guarantee respect for individual rights and compensation for any violations thereof. In fact, anyone who suffers injury as a result of a violation of human rights by representatives of the authorities may institute an action against the latter in the competent courts to collect compensation for the injury suffered.

20. This possibility was introduced in 1888 by a decree promulgated on 27 November 1888 by the Bey of Tunis (article 1 thereof). It was subsequently confirmed by the Act of 1 June 1972 establishing the Administrative Court.

21. Article 84 of the Tunisian Civil Code, which was promulgated on 15 December 1906, provides for the same opportunity stating that civil liability applies to the State, even from the standpoint of its

administration, bearing in mind its general right of oversight, as well as to municipal administrations and other public administrations, for any act or error committed by their representatives, agents and officials, in the exercise of the duties entrusted to them.

22. As to the question concerning suppression of the exploitation of the prostitution of others, it should be pointed out that, since prostitution and its attendant evil, namely, traffic in human beings for purposes of prostitution, are incompatible with the dignity and value of the human being and jeopardize the well-being of the individual, the family and the community, Tunisian positive law severely suppresses use of such practices.

23. The Penal Code provides for a number of cases:

(a) Women who by their gestures or words, offer themselves to passers-by or engage in prostitution, even on a casual basis, are liable to a penalty of between six months and two years in prison and a fine of between 20 and 200 dinars. Anyone who has had sexual relations with any of these women is considered an accomplice and is liable to the same penalty (article 231);

(b) The following shall be considered a procurer and shall be liable to between one and three years in prison and a fine of between 100 and 500 dinars:

(i) Anyone who, in any way, knowingly aids, protects or abets another's prostitution or soliciting with a view to prostitution;

(ii) Anyone who in any way shares the proceeds of the prostitution of another or receives subsidies from a person habitually engaging in prostitution;

(iii) Anyone who, living with someone they know to be habitually engaged in prostitution, cannot prove they have sufficient resources to cover their living expenses on their own;

(iv) Anyone who engages, trains or maintains a person, including an adult, with a view to prostitution or who forces them into prostitution or into debauchery;

(v) Anyone who acts as an intermediary, in any capacity, between persons engaging in prostitution or debauchery and individuals who exploit or remunerate the prostitution or debauchery of others (article 252);

(c) The penalty shall be imprisonment of between three and five years and a fine of 500 and 1,000 dinars if:

(i) The offence involves a minor;

(ii) The offence is accompanied by duress, abuse of authority or deceit;

(iii) The perpetrator of the offence carries an open or concealed weapon;

(iv) The perpetrator of the offence is the husband, ascendant or guardian of, or has authority over, the victim or if he is the victim's hired servant or a teacher, official or minister of the cloth or if he has been assisted by one or more person(s) (article 233).

24. It should be pointed out that the penalties provided for under articles 232 and 233 of the Penal Code apply even if the various acts which constitute the violations were committed in other countries.

25. Similarly, those guilty of the above-mentioned violations will be banned for up to 10 years (article 235 of the Penal Code).

26. In view of what has been stated and if, as Giorgio del Vecchio said in an essay on political philosophy entitled "L'Etat et le droit", a State subject to the rule of law is defined as a State whose main function is to protect individual rights, then the Tunisian State richly deserves that definition.

27. With a view to further safeguarding fundamental human rights, a higher committee on human rights and fundamental freedoms was established on 9 April 1991 thus reflecting, according to the words of President Ben Ali a profound faith in the sacred nature of human rights and fundamental freedoms. To guarantee these rights and freedoms to citizens is to ensure their effective and thoughtful participation in the achievement of development and in the strengthening of the foundations of a healthy, balanced and open society.

28. In that context and with a view to coordinating the action undertaken to promote human rights, on 19 June 1991 President Ben Ali decided to establish the post of Principal Adviser to the Chief of State responsible for Human Rights.

II. INFORMATION SUBMITTED BY UNITED NATIONS ORGANS, SPECIALIZED AGENCIES AND INTERGOVERNMENTAL ORGANIZATIONS

A. Economic Commission for Latin America and the Caribbean

[Original: English/Spanish]

[27 December 1991]

1. The Economic Commission for Latin America and the Caribbean (ECLAC) has submitted summaries of material available in its library on the topics of prostitution and exploitation of minors in countries of Latin America and the Caribbean.*

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* Available for consultation in the files of the Secretariat.

B. Council of Europe

[Original: French]

[18 December 1991]

1. In September 1991, the Council of Europe organized a seminar on action against traffic in women and forced prostitution as violations of human rights and human dignity.

2. In all probability the study of this issue will be continued within the Council of Europe in the context of a working group of the Steering Committee for Equality between Women and Men.

C. European Parliament

[Original: French]

[8 January 1992]

1. The European Parliament has submitted a number of its documents relating to the issues raised in Economic and Social Council resolution 1983/30, including child pornography (written question No. 2939/90), child prostitution (written question No. 65/90), decriminalization of prostitution (written question No. 817/89), implementation of article 16 of the Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (written question No. 2202/88). Also submitted was the text of its resolutions on the exploitation of prostitution and the traffic in human beings of 14 April 1989 and on the disappearance into prostitution of young girls in refugee camps in South-East Asia of 17 October 1980.*

D. International Criminal Police Organization

[Original: English]

[27 December 1991]

1. In consequence of the radical changes in Eastern Europe, most police forces in Western Europe have reported a growing number of prostitutes coming from the East, including the former Soviet Union. According to our National Central Bureaus in Germany and Luxembourg, the bulk of the women are recruited in their countries as models, dancers or waitresses and then brought into prostitution against their will. For this reason, the National Central Bureau in France is carrying out a study on the phenomenon, which is expected to be completed in the middle of 1992.

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* Available for consultation in the files of the Secretariat.

Annex

ECONOMIC AND SOCIAL COUNCIL RESOLUTION 1983/30 ON THE SUPPRESSION OF THE TRAFFIC IN PERSONS AND OF THE EXPLOITATION OF THE PROSTITUTION OF OTHERS

The Economic and Social Council,

Recalling that the enslavement of women and children subjected to prostitution is incompatible with the dignity and fundamental rights of the human person,

Recalling its resolution 1982/20 of 4 May 1982,

Having taken note of the report prepared by the Special Rapporteur in pursuance of that resolution, a/

1. Again invites Member States to sign, ratify and implement the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others; b/

2. Also invites Member States to sign, ratify and implement the International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications, concluded at Geneva on 12 September 1923, as amended by the Protocol signed at Lake Success, New York, on 12 November 1947; c/

3. Recommends that Member States should take account of the report of the Special Rapporteur and draw up, subject to their constitutions and legislation and in consultation with the parties concerned, policies aimed, to the extent possible, at:

(a) Preventing prostitution by moral education and civics training, in and out of school;

(b) Increasing the number of women among the State's personnel having direct contact with the populations concerned;

(c) Eliminating discrimination that ostracizes prostitutes and makes their reabsorption into society more difficult;

(d) Curbing the pornography industry and the trade in pornography and penalizing them very severely when minors are involved;

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a/ E/1983/7 and Corr.1 and 2.

b/ General Assembly resolution 317 (IV), annex.

c/ United Nations Treaty Series, vol. 46, No. 710, p. 201.

(e) Punishing all forms of procuring in such a way as to deter it, particularly when it exploits minors;

(f) Facilitating occupational training for and the reabsorption into society of persons rescued from prostitution;

4. Further invites Member States to co-operate closely with one another in the researh for missing persons and in the identification of international networks of procurers and, if they are members of the International Criminal Police Organization, to co-operate with that organization, requesting it to make the suppression of the traffic in persons one of its priorities;

5. Invites the regional commissions to help Member States and United Nations bodies wishing to organize regional expert meetings, seminars or symposia on the traffic in persons;

6. Suggests to the Secretary-General that he designate as a focal point the Centre for Human Rights, specifically the secretariat of the Working Group on Slavery, in close co-operation with the Centre for Social Development and Humanitarian Affairs of the Department of International Economic and Social Affairs;

7. Requests the Sub-Commission on Prevention of Discrimination and Protection of Minorities to consider the possibility of inviting the Commission on the Status of Women to designate a representative to participate in all sessions of the Working Group on Slavery, in accordance with Economic and Social Council resolution 48 (IV) of 29 March 1947;

8. Requests the Centre for Human Rights to prepare, in liaison with the United Nations agencies and organs concerned and with the competent non-governmental organizations, two complementary studies: one on the sale of children and the other on the legal and social problems of sexual minorities, including male prostitution, and to submit those studies as soon as possible to the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

9. Encourages the Centre for Social Development and Humanitarian Affairs of the Department of International Economic and Social Affairs to utilize the available resources of all its branches with a view to undertaking interdisciplinary studies, and to co-operate with the Division of Narcotic Drugs;

10. Invites all the organs, organizations and agencies of the United Nations system concerned, particularly the United Nations Children's Fund, the Office of the United Nations High Commissioner for Refugees, the International Labour Organisation and the World Health Organization, to bring the traffic in persons to the notice of their representatives and experts and to transmit their observations and their studies to the focal point designated by the Secretary-General;

11. Encourages the United Nations Educational, Scientific and Cultural Organization to draw up, with member States, programmes for use in schools and in the media concerning the image of women in society;

12. Invites the World Tourism Organization to place the question of sex-oriented tourism on its agenda;

13. Requests the Secretary-General to take the necessary steps to have the report prepared by the Special Rapporteur in pursuance of Council resolution 1982/20 reproduced as a United Nations publication so that it may be widely disseminated;

14. Also requests the Secretary-General to report to the Economic and Social Council, at its first regular session of 1985, on the steps taken to implement the present resolution;

15. Decides that the activities recommended in the present resolution will be carried out within the limits of the resources provided for by the Secretary-General in the proposed programme budget for the biennium 1984-1985.

14th plenary meeting
26 May 1983